Attachment C

CONSENT TO SUBDIVISION AND PETITION FOR VOLUNTARY ANNEXATION AGREEMENT

THIS AGREEMENT, by and between the City of Council Bluffs, Iowa, an incorporated municipality ("City"), and The Julia Asmus Johnson 2017 Trust ("Owner"), is hereby entered into this _____ day of _____, 202_.

WHEREAS; Owner is the legal owner of real estate legal described and as shown in Exhibit A, which is attached hereto and incorporated herein by reference (the "Property").

WHEREAS; as of the date of this Agreement, the Property is not contiguous to the corporate city limits of the City, but is located within two (2) miles of the corporate city limits of City and constitutes territory which may be annexed by City as provided in Iowa Code 368;

WHEREAS; it is the intent of the Owner to have the Property annexed by City upon certain terms and conditions as hereinafter set forth;

WHEREAS; notice of the proposed annexation shall be given to the parties legally required to be notified pursuant to Iowa Code 368 at the time the Property becomes contiguous to City or as required upon the annexation of the Property at City's discretion;

WHEREAS; This Agreement is made pursuant to and in accordance with the Provisions of Iowa Code 368, with the foregoing preambles and recitations made a part of this agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements set forth below, the parties hereto agree as follows:

1. **Term** - The Term of this Agreement shall commence on the date written above and shall continue until such time as the annexation of the Property into City is final. The voluntary annexation of the land described in the attached Exhibit "A" shall be subject to the City not taking any action on this Petition for a period of 10 years after the execution of the same unless otherwise requested by the owner or their assigns, or at such time as the City, in its sole discretion, is prepared to move the voluntary annexation forward.

2. **Requirement to Annex -** The Owner hereby agrees to immediately and voluntarily annex the Property into the City or at such time as the City, in its sole and absolute discretion, is prepared to move the voluntary annexation forward.

3. **Petition** – Owner shall submit to the City Clerk a Petition for Annexation of the Property by City. The City Clerk shall submit the Petition to the City Council for consideration at such time and under such circumstances as the City deems appropriate. Pursuant to Iowa Code 368.7(e), upon the execution of this Agreement, Owner hereby waives the right to withdraw or rescind the Petition and hereby waives the right to withdraw its consent to the Petition and hereby waives the right to object to the annexation.

4. **Fees and Costs** - The City agrees to pay the administrative costs associated with the annexation of the Property, including filing, recording and publication of notice costs. Any independent counsel retained by the Owner shall be at the Owner's expense.

5. **Sewer Systems** – Owner shall be responsible for the design, permitting, and construction of all improvements necessary for connection to the City's public sanitary sewer system when directed to do so by the City. All construction proposed to occur within any City owned right-of-way shall comply with all City standards. Any and all plans related to the construction of the sewer system herein, including any applicable plan review fees, shall be submitted to the City for review and approval, with no such work on the sewer system to be commenced until City issued permits are approved. Owner agrees to disconnect all private sewer disposal systems and promptly connect all units to the newly constructed public sewer at Owner's expense. Owner shall own and operate said sewer systems, up to and including the point of connection to the public sanitary sewer system. Owner shall pay service charges for the discharge of sanitary sewer in accordance with City Municipal Code Chapter 2.08 and Chapter 5.22 as a user outside City limits. Owner further agrees that all private sanitary system(s) will be removed from service in accordance with local and state law. No additional users shall be allowed to connect to the sanitary sewer extension herein without prior permission from the City, with such connections requiring immediate annexation by all parties.

6. **Additional Annexation** – Owner shall not contest the City's use of this voluntary annexation for any additional annexation(s) the City may pursue as allowed by the State of Iowa.

7. **Subdivision Prohibited** – Owner shall not subdivide or modify the size, shape or square footage Property without written consent from the City, with such changes requiring immediate annexation.

8. **City Code Compliance** – Any new development constructed on the Property, regardless of annexation status, shall conform to City Municipal Code Chapters 4, 5, 6, 12, 13, 14, 15 and 17, as well as any other applicable City Code. Owner shall submit all plans and specifications of new development to a third party inspector approved by the City and cause such inspector to certify that any new development is designed and constructed in a manner is consistent with the City Code as stated herein. Owner hereby agrees that any new development shall conform to the R-1E zoning requirements as outlined in Council Bluffs Municipal Code 15.08A. However, until any such new development occurs, Owner shall be allowed to utilize proposed parcel #24064 on the attached Exhibit A for animal, horticulture and/or crop production.

9. **Assignment** - Except as provided below, this Agreement may not be assigned by any party without the express written permission of the other parties.

10. **Successors and Assigns** - The rights, duties, and obligations of the parties as contained in this Agreement shall run with the Property and be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, legal representatives, and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto, and their respective heirs, successors, legal representatives and permitted assigns, any rights, remedies, liabilities or obligations under or by reason of this Agreement. In order to ensure proper notice to all successors and assigns, a copy of this Agreement shall be filed with the Pottawattamie County Recorder.

11. **Governing Law** - All rights and obligations arising out of or related to this Agreement, and the application and interpretation hereof, shall be governed by and construed in accordance with the laws of the State of Iowa.

12. **Entire Agreement** - This Agreement, the exhibits attached and the documents delivered and recorded pursuant hereto, constitute the entire agreement and understanding among the parties and supersede and revoke any prior agreements or understandings relating to the subject matter of this Agreement.

13. **Severability** - In the event any provisions of this Agreement is held invalid, illegal, or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not

be affected thereby and shall continue to be valid, legal, and enforceable. In the event any provision of this Agreement is held to be invalid, illegal, or unenforceable as written, but valid, legal, and enforceable if modified, then such provision shall be deemed to be amended to such extent as shall be necessary for such provision to be valid, legal, and enforceable and it shall be enforced to that extent. Any finding of invalidity, illegality, or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

14. **Attorney Fees and Costs** - Should legal action be required to enforce the terms of this Agreement, the prevailing party shall be entitled to recover all costs, including reasonable attorney, paralegal, and expert fees.

15. **Council Approval** – This Agreement is subject to final approval of the City Council in its sole discretion.

_____ _____

Matthew Walsh, Mayor
City of Council Bluffs ("City")

_____
Print Name
("Owner")

State of _____, County of _____; ss.

This record was acknowledged before me this_____ day of _____, 20___, by Jodi Quakenbush (City Clerk).

_____
Notary Public

State of _____, County of _____; ss.

This record was acknowledged before me this_____ day of _____, 20___, by _____.

_____
Notary Public